As a grateful consumer of Academy communications for some years, I have most enjoyed the ones presented by specialists on subjects they know intimately, and in such a way as to enable nonspecialists to appreciate some of the finer points. I am going to try the same approach with what initially may seem to be a particularly unpromising subject: the Congress of the United States. I note, for the record, that no apology seemed necessary for Edward O. Wilson to talk with some affection about ants. Congress, however, is a different matter. Congress is unpopular—more so, I judge, than Professor Wilson's ants would be at an Academy picnic.

I hope to convey some of the ways in which political scientists who specialize in Congress look at the institution, as compared with, or as a corrective to, the ways in which many Americans have come to appreciate (or depreciate) their national legislature. Although I intend to draw freely upon the insights and findings of my colleagues who study Congress, I do not mean to evade my own responsibility for what I am about to say, which is in part designed to disturb the complacency of citizens who are quite sure they don't like Congress without really understanding what Congress does or why.

There are many complaints about Congress. We hear, for example, about gridlock and the unwillingness to face big issues like the deficit. We also hear about inefficiency, slowness, and failure by Congress to consider most bills that are introduced. Then there is
corruption, perquisites of office, waste, the pork barrel, special interests and their political action committees. More broadly, we hear about systemic unaccountability and charges that senators and representatives are out of touch with their constituents. The menu is very large. These are the more popular items. First, let us consider gridlock.

Gridlock may be fading away even as we speak, owing to the results of the last national elections, which for the first time in a dozen years placed the presidency and Congress under the control of the same political party. Gridlock is what afflicts Congress when that body is unwilling to produce policies desired by the president and instead produces policies the president doesn’t want. Yet it should occasion no surprise that in the last couple of years before a presidential election, a Congress controlled by the party opposite the incumbent president becomes sluggish and appears to be biding its time. To my mind, the approach to congressional leadership taken by Speaker Thomas Foley and Senator George Mitchell is not very different from that taken by Speaker Sam Rayburn and Senator Lyndon Johnson in the last two years of the Eisenhower presidency.

The complaints were similar: in the elections of 1958 the Democrats did very well indeed, yet by far the most memorable legislative product of the 86th Congress was the Landrum-Griffin Act, bitterly opposed by organized labor. When John Kennedy was elected president in 1960 the number of Democrats in the House of Representatives dropped from 283 to 262. Bill Clinton will take office with 258 Democrats, only 10 fewer than sat in the last Congress. In their last couple of years in office, Republican presidents Eisenhower, Nixon, Ford, Reagan, and Bush all had to deal with Democratic Congresses, and all got their way only about half the time they took positions on bills coming through Congress. Earlier in their terms they usually scored two-thirds or better. Thus, the recent situation is a familiar one: when there is party-divided government, legislative gridlock in the last couple of years of a presidency is quite common. Even so, it is experienced by
people in Congress and in the executive branch as frustrating and stressful.

If you go strictly by the numbers, legislative gridlock is greatly exaggerated by the people living through it. Appropriations bills get through, for example. We don't have the denial of supply that traumatically brought down the Australian government of Gough Whitlam in 1974. Routine bills go through the legislative process. In fact, historically, more than routine bills have regularly been enacted under conditions of divided government. Except when elections are imminent, divided government does not appear to deter significant legislative action. In recent times divided government gave us a substantial overhaul of the tax code in 1986, for example, and a grand budget compromise in 1990. In a remarkably diligent piece of research, David Mayhew has attempted to look at the partisan conditions under which all important legislation from 1946 to 1990 was enacted, and he has found that divided government just doesn't make much difference.

There is another side to gridlock: one reason legislative results of gridlock under divided government may not look so bad is that even when the same party controls both Congress and the presidency, there is still plenty of friction owing to the constitutional separation of powers. Some of the most enduring polemical prose in American political science has been devoted to this topic. In general, it divides our profession. Some of us think the British parliamentary system of strict party responsibility is better and would get rid of our system of separation of powers if they could. There was a period some decades ago when it seemed that no Harvard dissertation could escape the clutches of William Yandell Elliott without an obligatory chapter arguing that case. More recently, there was a flurry of party-responsibility writing just after the gridlock tensions of the late fifties and early sixties were strongest. On the whole, it seems to me that the strict party-responsibility school has lost ground over the years to scholars—notably led in the last generation by Pendleton Herring and David Truman—who tolerate better the expression of policy disagreement that a separation-of-powers system facilitates.
As I go along I will give a little of the reasoning that has animated this point of view.

In the practical politics of today, legislation frequently requires a complicated sort of agreement: a coalition must be built that crosses parties and branches of government. This coalition is the product of a series of negotiations not only on the substance of various measures, but also on the apportionment of credit for the benefits those measures may generate and blame for the pain they may cause. It is quite understandable that politicians are reluctant to enact measures thought to be extremely painful to the voting populace at large—for example, deficit reduction or the shifting of incentives from consumption to savings. This is sometimes known in psychological circles as deferred gratification. Gratification deferred for too long runs up against the next election. Passing legislation that causes pain is thus a risky thing for elected officials to do. Amazingly, sometimes they do it, if a deal can be worked out to share the blame. When this happens, we don't get strict party responsibility, but because the participants in the deal are usually officials acting for their legislative parties, we do get a form of weak party responsibility. We have more of it—and more party loyalty in congressional voting—than most people realize. This sort of deal resulted in the great budget compromise of 1990. One would have to say that it reflected favorably on President Bush's willingness to bargain, and it constituted something of a break with his predecessor's highly polemical, take-it-or-leave-it style of governing. At the time Bush liked the result; it was only later, under criticism from the right wing of the Republican party, that he edged away from the deal, refused to defend it, and ultimately claimed it had been a mistake. The rhetoric surrounding this sad retreat spawned a lot of the contemporary talk about gridlock.

On to complaints about inefficiency. To be inefficient is to use resources without achieving stipulated ends. Congress, I suggest, is seen as inefficient not only because it resists pursuing goals stipulated by presidents but also because it consists of many actors pursuing a great variety of goals. These actors are put there by the Constitution and by the
voters they represent. Congressional inefficiency, in short, is caused by conflict, and conflict is built into the constitutional design.

However, to grant the constitutional (and perhaps even social) bases of inefficiency and conflict is not to look with equal favor upon all modes of its expression. For example, we can see that the weak form of party responsibility is a reasonable adaptation to the problem of coordinating a separation-of-powers system. This gives us a rational basis for justifying those rules of Congress that organize conflict through political parties, as well as a basis for looking with less favor on situations in which the power to stall business rests with very small numbers of members. Thus, the relatively new practice by which individual senators can take business off the congressional agenda by privately asking the majority leader to put a “hold” on the item strikes me (and others) as excessive. At a minimum, holds should be publicly announced, or perhaps subjected to a time limitation, if not abolished outright. The individualistic traditions of the Senate are undoubtedly valuable. But like all good things, they need to be balanced against legitimate countervailing values. Among these values is the expectation that the Senate can promptly take up business that comes to it in an orderly way.

On the House side, two reforms bearing on the management of conflict have to do with the strengthening of the access of minority members to committee staffs of their own choosing, and assurances that the minority leadership may regularly avail itself on the floor of a motion to recommit legislation. Both these measures might well increase conflict, and therefore inefficiency, but because they locate responsibility for goal setting in the hands of the minority party, they seem to me in harmony with the value of maintaining the essential representational capacities of Congress, and they do not weaken Congress in the political system.

A reform that would spread the congressional workload more evenly among committees can and probably should be pursued, but it will be ferociously contested within Congress, as it has been in the past, without getting very far. This sort of reform is abso-
lutely central to the work lives of members. It would almost certainly have no bearing on the popularity of Congress or on the likelihood that Congress would be accused of inefficiency.

Next category of complaints: corruption. Is Congress especially corrupt? This is not a topic easy to discuss in a civilized manner. Congress does some things—such as exempting itself from general laws governing relations between employers and employees—that make the institution look bad. The rationale behind some of this special treatment is that members of Congress, unlike most employers, are subject to frequent elections and are therefore appropriately accountable only to the electorates that sent them to Congress and that can, at will, retire them. The chief sanction applicable against a member of Congress is public embarrassment. Former Senator Brock Adams would probably testify that this is not a negligible sanction; so also might Senator Bob Packwood. There is, however, a sizable body of opinion that disagrees, and my guess is that more and more it will prevail.

Under the heading of corruption it is necessary to talk about the risks of bribery in congressional relations with interest groups (or, if we are to speak pejoratively, “special” interest groups). Members of Congress cannot avoid relationships with such groups, because Americans have a constitutional right of petition. That right, coupled with those of assembly and speech, amply underpins the appropriateness of citizens outside of government forming interest groups and seeking to influence public policy. Listening to such groups is definitely part of a Congress member’s job. It helps members understand who wants what and why.

Interest groups do not, by the way, consist exclusively of those pursuing business interests. Private citizens appeal to members of Congress quite frequently for help in dealing with federal bureaucracies on issues ranging from lost social security checks to compassionate leave from the military. Local governments and nonprofit organizations, many of which are objects of federal regulation or possible recipients of federal funding, also
look to members of Congress for help and information.

For more than a generation, our colleagues—notably Lewis Anthony Dexter and Richard Fenno—have been complicating our understanding of how Congress relates to interest groups. They have found, among other things, that members of Congress are far more active in relationships with such groups than newspaper accounts generally allow—that each member actively constructs a constituency out of the raw materials in the geographic area he or she represents, plus his or her substantive interests, which may reach well beyond the constituency.

I suppose there are respectable conceptions of public-policy formation in a democracy that do not give great weight to, or even ask, what various people and groups want. But lurking in the constitutional provision for frequent elections is an organizational imperative requiring members of Congress to weigh citizens’ concerns heavily, and that too is a respectable conception of public-policy formation. Given the size and complexity of the national government and its increasing capacity to affect the lives of ordinary citizens, the willingness of members to put the expertise of their offices at the disposal of constituents is valuable to citizens in their dealings with the government, and it enables members to gauge grass-roots effects of governmental policy.

It also leads to alliances between organized citizens and members, and to opportunities to cross lines of propriety. The latter evidently occurred in the Keating Five scandal. In the end no member of Congress was found to have violated criminal laws by assisting Mr. Keating and his banks in their problems with government regulators, but several senators were criticized by their peers for showing bad judgment. In my opinion a couple of them did show bad judgment, short of bribery and, in one case, extortion—but only just short, I think. There have been other examples of improprieties. As you will recall, several years ago a scandal erupted after some members of Congress were lured into taking bribes by the FBI’s “Abscam” sting operation. Right now there is an ongoing investigation that may lead to the uncovering of funny business in
the House Post Office—probably the misappropriation of public funds.

Although such improprieties do not involve most members of Congress or affect essential congressional operations, they indicate a need for clearer codes of conduct or stronger management controls. It isn't the perception or even the appearance of bad behavior that needs to be attended to, by the way; rather, it is bad behavior. There is no use, in my opinion, chasing the will-o'-the-wisp of perception. To do so mortgages an institution to any powerful voice that wishes to announce its displeasure at perceiving something. In any event, previously moribund or nonexistent ethics committees in both houses of Congress have been pretty busy in recent years. I believe that this accelerated activity reflects not an increasing incidence of bad behavior but an increasing willingness to police behavior.

Curiously, the House bank scandal—a phony charge of corruption—got Congress its worst publicity in recent years. The House bank (now closed) was a non-interest-paying depository operated for the convenience of members. It was started early in the nineteenth century, at a time when Capitol Hill was physically far away from the commercial amenities of the city of Washington. Until recently, most members' paychecks were deposited there, and members wrote checks on their accounts. Reporting mechanisms were casual, and many members overdrew their accounts from time to time, some infrequently and some often. All overdrafts were covered without penalty by deposits on hand and by periodic new deposits of members' paychecks.

It is hard to believe that the disclosure of some members' overdrafts could be blown up into a major embarrassment to Congress. One explanation for the firestorm of bad publicity is that in the eyes of many citizens, the House bank was an extraordinary privilege and hence symbolic of the insulated life that members are accused of leading. The bank could be made to appear to be a special amenity available to members, along with dedicated parking spaces at National Airport for members fleeing to their constituencies on Thurs-
day nights, cheap haircuts, cafeterias with low prices, free parking on Capitol Hill, potted plants and picture frames for congressional offices, franking privileges, and gymnasiums where members can indulge in such nonlegislative activities as basketball and racquetball. What most of these amenities have in common is that their being at the disposal of an elected body depends on nobody complaining about them. Once complained about, they are defended by almost no one.

I will defend them, although doing so is risky business, since Ross Perot, Rush Limbaugh, Ralph Nader, Jerry Brown, and innumerable talk show hosts are on the other side. But it seems to me these amenities don’t cost taxpayers very much or put members out of touch with their constituents. Capitol cafeterias and dining spaces are modest in comparison with the facilities that many businesses and professional firms have at their tax-subsidized disposal. Dedicated parking spaces on the Hill and at the airports can be justified. Members of a legislative body give up control over their schedules; they must gather at times and places set by their leaders. Members of a representative body must also go home on a regular basis to preserve their accessibility to their constituents. These physical movements, given contemporary American technology, require parking spaces. The same argument, more or less, covers offices, telephones, franked mail, and staff. All, as I see it, are needed by members of Congress if they are to do the jobs we expect them to do. The same cannot be said, however, about the potted plants and the haircuts—so, trivial as they are, I guess they’ll have to go.

There has been an energetic campaign among some members of Congress to invite discredit upon the institution, and the bank scandal in particular was seized upon as a windfall weapon in that campaign. Apparently, an increasing number of Republican members of the House, under the leadership of Newt Gingrich of Georgia, the House Republican whip, have concluded that the dominance of the Democratic party in the House—a condition that has existed, with only a couple of breaks, for half a century—can be reversed only if the institution itself—
and, by extension, Democratic stewardship of the institution—is discredited. Thus, they look for occasions to interpret events accordingly. Those of you with good memories will remember that after the election of 1948, roughly the same desperate calculations were attributed to Republicans in the Senate, who despaired of ever seeing a Republican in the White House again. This was a source of respectable backing for the antics of Senator Joe McCarthy. I have been pondering what recent events might be as discouraging to today’s House Republicans as the election of 1948 was in its time.

What we wish to explain is the rise of extreme confrontational partisanship among Republicans in the House, reflected in the election of Newt Gingrich to Republican leadership; the inflation of the bank scandal by House members, notably by a group of Republican freshmen calling themselves the Gang of Seven; and subsequent changes in the personnel and rules of the Republican conference that have facilitated even more confrontation.

An examination of the chain of causes that has led to the current situation properly begins with the changes in technology that urbanized the South and redistributed its population. The last of these technologies to achieve widespread distribution (in the 1950s) was air conditioning, which brought northerners south in sufficient numbers to form the nucleus of an emerging Republican party in parts of the old Confederacy where Republicans had never before been found; Tampa—Saint Petersburg and suburban Dallas led the way. By the 1970s and 1980s, Republicans occupied a third of the congressional seats from the Old South, up from less than 10 percent. This trend also aided in the liberalization of the Democratic parties of the southern states.

In Washington the resulting drastic reductions in the number of Dixiecrats in the Democratic caucus meant that for the first time in half a century, the mainstream of the Democratic party could emerge in the House and insist that its leaders follow mainstream policies. This reduced the autonomy of committee chairmen by requiring them to pay far greater attention to rank-and-file Democratic
committee members and to cut back on the cross-party alliances that many of them had forged with ranking Republicans.

The withdrawal of Democratic chairmen from these well-established alliances weakened the influence of ranking Republicans on all the committees, and especially weakened the overall clout of Republican members who otherwise would have been inclined to engage in cross-party deal making. These changes encouraged the emergence of confrontational sentiment among Republicans. So did the speakership of Jim Wright, a strongly programmatic and sharply partisan Democratic figure. It was during Wright's short speakership (1987–89) that Gingrich was elected Republican whip in a battle that pitted him against Edward Madigan of Illinois, a far more moderate protégé of Bob Michel, the House Republican leader.

So, as I see it, Republican confrontation has been a reaction to Democratic ideological consolidation, which resulted from the rise of the Republican party in the South. Moreover, it is the sharp increase in confrontational partisanship in the House that has most recently given rise to the belief, now widespread in the population, that Congress has become unusually corrupt.

This also may help to explain the unpopularity of Congress. That Congress is extraordinarily unpopular today is evident not only from public opinion polls but also from the passage in fifteen states—by large majorities—of initiatives seeking to limit members’ terms of service. I say “seeking to limit” rather than “limiting” because the probability is overwhelming that federal courts will find these measures unconstitutional.

The controlling case is evidently the Supreme Court’s opinion in 1969, in Powell v. McCormack, that Congress is forbidden to add to constitutionally enumerated qualifications for congressional service. These qualifications concern age, citizenship, and place of residence. I think the Court will find that the disqualification of individuals from access to the ballot by virtue of prior congressional service constitutes an additional qualification for such service. The only remaining issue will be whether states will be given the constitu-
tional right to do to Congress what Congress is forbidden to do to itself. I doubt that state initiatives will be permitted to amend the Constitution in this way.

Ultimately, therefore, the debate on the merits of term limitations will in all probability have to take place in the context of an as-yet-unwritten constitutional amendment. In spirit this amendment will no doubt resemble the Twenty-second Amendment, which the Republican 80th Congress offered to the states in 1947 in loving memory of Franklin Roosevelt's election to four terms as president. Today the congressional term limit movement, while it has a few populist Democrats in the front window, is mostly a Republican hobbyhorse. This seems to me perfectly understandable: Republicans at present don't do terribly well at winning House elections when there is no incumbent, and their record at unseating sitting Democrats is even more dismal.

One might suppose that given the overall extreme unpopularity of Congress, term limits would be unnecessary; every two years an opportunity exists in each and every congressional district to vote against sitting members. But Americans do not do that; on the whole we like our members of Congress, and we vote overwhelmingly to reelect them. It's Congress we don't like. Critics of Congress seize upon this discrepancy as evidence that something must be fishy—that is, artificially uncompetitive—about congressional elections. It is noted that incumbents, for example, usually have a lot more campaign money than challengers. Moreover, by virtue of their taxpayer-paid-for staffs, which render service in the constituencies year-round, incumbents are in effect campaigning all the time.

What to do about this? Most of the proposals that hope to increase the competitiveness of congressional elections insist on limiting the campaign funds that incumbents and challengers alike can raise and spend. This would make elections even less competitive, on average, because it would vastly increase the value of the name recognition that comes with incumbency. The best empirical scholarly work on this subject, by Gary Jacobson,
argues that while it is true that money matters in elections, it isn’t the incumbent’s money but the challenger’s money that counts. Although there aren’t that many good challengers around for interest groups or parties or political action committees to invest in, some do emerge, and people do invest in them, and they can make a difference regardless of what the incumbent spends.

Some of us who have come to know a fair number of members of Congress and have observed how they work are ready to entertain the hypothesis that artificially uncompetitive congressional elections are not necessarily the source of their success; members are reelected because they work hard and effectively at being reelected. They go home a lot and spend a lot of their time and energy meeting, talking with, and listening to their constituents. If in the interest of electoral competitiveness we were to deprive them of most of the resources that make frequent reelections of members possible, we would also have to deprive them of the means of communicating with and assisting their constituents. This, presumably, would also deprive constituents of effective representatives, and would perhaps also diminish Congress’s influence in Washington policy making.

Term limits would also weaken Congress. Most but not all advocates of term limits concede that such limits would have this effect and, indeed, find it desirable. The one major exception is the columnist George Will, who thinks dismissing good members and bad alike after a set period, and sending them home or perhaps to Washington law firms, would strengthen the institution and its independence. This reasoning will not stand scrutiny. Indeed, it scarcely bears repetition. The real issue, to my mind, is not whether term limits weaken Congress, but whether a case can be made that Congress ought not to be weakened. And so, in the end, our topic is not “Does Congress Work?” but rather “Should Congress Be Permitted to Work?”

As it is presently organized, Congress—despite its unwieldiness as an instrument of any single well-organized will—is a remarkably influential body, as legislative bodies go. In no other national legislature in the world,
or, to my knowledge, in world history, has it been more likely that a measure proposed will be transformed by a legislative process. It is this property of transformativeness that decisively separates Congress from the legislatures of parliamentary democracies. Unlike many other democratic legislatures, Congress has a strong division of labor; individual members, organized into committees, are given serious work to do. Many of these members develop strong interests in public policy and, over the years, considerable expertise in the subject matter covered by their committees. Such members tend to become quite influential in framing issues for consideration by Congress. Their expertise fortifies Congress’s unique institutional capacity to exercise well-informed judgment on public policy in a genuinely independent manner—indepedent of the executive branch, and independent also of lobbyists and interest groups.

Term limits would retire members who embody this independence and treat them no differently from time servers, burnouts, and the ineffective. Moreover, term limits would discourage the independent acquisition of knowledge; they would encourage dependence on interest groups and others (bureaucrats, presidential agents, congressional staff, newspaper columnists), upon whom inexperienced legislators may come to rely for information about proposed measures. This situation would arise simply because it takes time and experience for anyone to acquire and test information. Term limits for members of Congress would single out elected officials with the closest ties to citizens at the grass roots and handicap those officials in the policy communities of Washington.

This by no means exhausts the arguments against term limits or the ways in which term limits hurt Congress. But those of us who consider them a very bad idea must confront a more basic question: Why would a strong Congress be preferable to a weak one?

After thirty years or so of Congress watching I can certainly try to answer this question, but in doing so I must rely heavily on unproven convictions. I cannot prove, for example, that hierarchy in politics is less nourishing
to the human spirit than a condition more like equality, but I believe it. I believe also that sometimes presidents are wrong in the policies they may wish to pursue. I therefore value the fact that Congress institutionalizes a system of checks and balances, which enables some leaders to contradict others in a way that isn’t merely arbitrary or whimsical or random in character. Compared with other modern political systems, ours spreads power among an unusually large number of leaders, and situates those leaders vis-à-vis followers quite diversely, and frequently requires cooperation among many of them. This cooperation, the overcoming of the capacity to contradict, is achievable—and when it is achieved, it brings legitimacy to the acts of government. Because many of our political leaders are connected to followers through elections, which are held frequently and regularly, we may even speak of the American government as a sort of self-government.

How can Congress bring legitimacy to the work of American self-government when it is itself unpopular and, moreover, when it provides access to ordinary citizens that is at best imperfect? I don’t think there is a simple answer to this question. I think it would be greatly preferable if Congress were a much less unpopular institution. It is a fact that Congress becomes less unpopular when it is seen by large numbers of Americans to be deliberating seriously, even in opposition to the president (for example, as in the Fulbright Committee hearings about Vietnam, or the deliberations of the House Judiciary Committee on the impeachment of President Nixon). So we must take note of the fact that fluctuations in the popularity of Congress are at least in part the product of publicity and therefore, conceivably, of education.

We also know that although Congress is unpopular, members of Congress are not. Thus, while Congress is unable to summon the allegiance of ordinary citizens en masse, in a disaggregated way members may do so. Popular approval of individual members and approval of congressional deliberative processes, when they are visible, may make up for at least some of the deficit in popularity that we currently observe.
It is not much remarked, yet it seems to me essential for a full understanding of the situation of the American political system, that Congress bears a representational burden unlike that borne by democratic legislative bodies representing smaller, more homogeneous populations. Among the nations of the world, only India, Brazil, Russia, and Indonesia combine geographic expansiveness and population size and diversity to a degree approximating that of the United States. In that rather exclusive league the capacities of our representative bodies to express, suppress, or channel at least some of the conflicts that might otherwise lead to difficulties in maintaining civil peace seem remarkable. We cannot prove that our representative institutions, especially Congress, are chiefly responsible for holding the American political system together. But we know something is doing so in the face of disparities of religion, language, ethnic origins, and race in a very large (and, I am sorry to say, well-armed) population. Similar conditions in many parts of the world lead to widespread communal violence or require strong coercive measures to contain. In this country, on the whole, we are watering the tree of liberty not with the blood of patriots, as Thomas Jefferson thought we might, but rather, as James Madison provided, with the saliva of legislators in debate.

I offer this argument not because I can prove it is true but because I think there is something in it. If there is something in it, then Congress works in part when it does not seem to be working. It works when it is processing bills into laws, and also when it is not doing so; when it is appropriating, and also when it is withholding appropriations; when it is advising and consenting, and also when it is not consenting. Congress tests the patience of presidents and of high-minded observers. It is frequently moved to respond piecemeal to partial interests, and it makes a lot of noise. Its weaknesses as a well-coordinated machine for the efficient production of laws thus conceal its strengths as a representative body.

I leave to your own judgment whether a parliament of ants might do better.